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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,600	11/14/2000	Victor T. Chen	044407:0684	3680

7590

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EXAMINER

OROPEZA, FRANCES P

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,600

Applicant(s)

CHEN ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-31 and 33-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-31 and 33-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment filed 10/29/02

1. The Applicant amended claims 1, 3-30, 34, 39-42, 44 and 51-53 to successfully address the 35 U.S.C. 112 rejection of record, to clarify the claimed subject matter, and to better recite the present subject matter.

The Applicant cancelled claims 2 and 32.

The Applicant added claim 62.

Claims 1, 3-31 and 33-62 are pending in this application; claims 1, 14, 22, 30, 44, 53 and 62 are independent.

2. The Applicant's arguments related to the 35 U.S.C. 102(b) rejection of claims 1-61 have been fully considered but they are not persuasive.

As related to the independent claims 1, 14, 22, 30, 44 and 53 the Applicant is unable to find in the Gillberg et al. reference discrimination criteria for distinguishing at least two different types of regular rapid supraventricular heart rates, fast atrial flutter and slower rate supraventricular tachycardia, where an indication corresponding to the type of heart rate is sent to the processor and the processor controls the atrial antitachycardia pacing of the heart according to the identified type of supraventricular tachycardia.

The Gillberg et al. reference does disclose discrimination criteria for distinguishing at least two different types of regular rapid supraventricular heart rates (c 19, ll 2-9; c 20, ll 13-19), atrial flutter or fibrillation, read as fast atrial flutter tachycardia, (c 20, l 20 – c 21, l 7 and c 23, l 3 – c 25, l 45) and sinus tachycardia or AV nodal re-entrant tachycardia, read as slower rate supraventricular tachycardia (c 21, ll 8-54), where an indication corresponding to the type of

heart rate is sent to the processor, and the processor controls the atrial antitachycardia pacing of the heart corresponding to the identified type of supraventricular tachycardia (c 7, ll 4-67; c 17, ll 39-61).

The 35 U.S.C. 102(b) rejection of record stands as noted in paragraph 3 of this action.

Claim Rejections - 35 USC § 102

3. Claims 1, 3-31, 33-61 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gillberg et al. (US 5755736) for the reasons of record and the discussion in paragraph 2 of this action.
4. Claim 62 is rejected under 35 U.S.C. 102(b) as being anticipated by Gillberg et al. (US 5755736) for the reasons of record and the discussion in paragraph 2 of this action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3762


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
12/27/02


JEFFREY D. JACOBZAB
PRIMARY EXAMINER
1/6/03